

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 761**

[OPTS—62015E; TSH—FRL 2292-3]

**Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment; Statement of Policy****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Rule-Related Notice; Statement of General Policy.

**SUMMARY:** The final rule on the use of polychlorinated biphenyls (PCBs) in electrical equipment was published in the *Federal Register* of August 25, 1982 (47 FR 37342). In that rule, special restrictions are placed on the use and storage for reuse of any transformer, electromagnet, or large capacitor (those containing three pounds or more of dielectric fluid) that contains 500 parts per million (ppm) or greater PCBs and poses an exposure risk to food or feed products. This notice constitutes EPA's statement of policy as to how the Agency will determine whether this electrical equipment poses an exposure risk to food or feed.

**EFFECTIVE DATE:** February 18, 1983.**FOR FURTHER INFORMATION CONTACT:**

Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** EPA promulgated a final rule, published in the *Federal Register* of August 25, 1982 (47 FR 37342), regarding the use of PCBs in electrical equipment. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761 and became effective on September 24, 1982.

The rule amends the PCB regulations by authorizing the use of PCBs in electrical equipment in accordance with certain use and servicing conditions. Special restrictions apply to transformers, electromagnets, and large capacitors (those containing three pounds or more of dielectric fluid) that contain 500 ppm or greater PCBs and pose an exposure risk to food or feed. See 40 CFR 761.30(a), (h), and (i). The use and storage for reuse of such electromagnets or transformers requires a weekly inspection for leaks of dielectric fluid and is prohibited after October 1, 1985. The use and storage for

reuse of large capacitors that pose an exposure risk to food or feed is prohibited after October 1, 1988.

Section 761.3(l) (47 FR 37356) of the PCB rule states that "posing an exposure risk to food or feed" means being in any location where human food or animal feed could be exposed to PCBs released from a PCB Item. A PCB Item poses an exposure risk to food or feed if PCBs released in any way from the PCB Item have a potential pathway to human food or animal feed. Only food and feed that is used or stored in private homes is excluded from this definition.

Since publication of this definition EPA has received requests from the American Frozen Food Institute (AFFI) and the American Feed Manufacturers Association (AFMA) for further clarification of this definition. These requests raised concerns about how EPA will interpret this definition and explained that a clarification would aid the food and feed industry in developing a strategy for compliance with the regulations. EPA is publishing this notice to express the Agency's policy for interpreting the definition of "posing an exposure risk to food or feed." EPA plans to interpret this definition in a reasonable manner, according to the guidance provided in this notice.

The exposure risk from a PCB Item to food and feed products is clearly dependent on the specific location of the applicable PCB Item (transformer, capacitor, or electromagnet) in relation to food and feed products. If, after considering the location of an individual PCB Item and all other available evidence, there is a reasonable possibility of contact between PCBs and food or feed, the PCB Item will be considered to pose an exposure risk to food or feed under 40 CFR 761.3(l). In evaluating the exposure risk from a particular PCB Item, it is useful to consider a hypothetical situation in which PCBs are discharged in any way from the PCB Item, such as through an equipment leak or rupture. Assuming such a discharge occurred releasing all or a portion of the contained PCBs and considering the PCB Item's location and any relevant factors, the question to be asked is whether contact between the PCBs and food or feed is reasonably possible. If, contact between PCBs and food or feed is reasonably possible, the PCB Item poses an exposure risk to food or feed. It is not EPA's intention to consider remote events that are unrelated to the use or storage for reuse of PCB Items when determining if these items pose an exposure risk to food or feed.

A determination whether or not a PCB Item poses an exposure risk to food or

feed requires an individual evaluation of the circumstances regarding a PCB Item's location. PCB Items that are located directly adjacent to or above food or feed products pose an exposure risk unless there is some type of secondary containment or other physical structure that prevents discharges of PCBs from contaminating food or feed. The PCB rule provides a number of options for eliminating restrictions on the use of transformers, electromagnets, and large capacitors that contain 500 ppm PCBs and pose an exposure risk to food or feed, including:

1. Relocating the PCB Item to an installation which does not pose an exposure risk to food or feed.
2. Reducing the PCB concentration in the PCB Item to less than 500 ppm (transformers and electromagnets only).
3. Adequately isolating or containing the PCB Item to prevent it from posing an exposure risk.
4. Relocating the food or feed to a location that is not in a potential exposure risk area.
5. Replacing the PCB Item with equipment containing less than 500 ppm PCBs.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: January 17, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Care Financing Administration****42 CFR Part 405****Medicare Program; Assistants at Surgery****AGENCY:** Health Care Financing Administration (HCFA), HHS.**ACTION:** Final rule.

**SUMMARY:** These regulations amend the interim final Medicare rules published on October 1, 1982, that implement section 113 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). Those regulations provide that Medicare will pay on a reasonable charge basis for the services of a physician who actively assists the physician in charge of a case in performing a surgical procedure (i.e., an assistant at surgery) in teaching

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**II. Discussion**

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